

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

KENNETH L. ANDERSON, #1468055,

Petitioner,

v.

ACTION NO. 2:16cv168

HAROLD W. CLARKE,
Director,

Respondent.

FINAL ORDER

Petitioner, a Virginia inmate who is represented by counsel, has submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 1. Petitioner alleges violations of federal rights pertaining to his conviction in the Circuit Court for the City of Virginia Beach for object sexual penetration. As a result of the conviction, Petitioner was sentenced on April 30, 2013, to serve twenty years in the Virginia penal system, with thirteen years suspended.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report and recommendation, filed September 20, 2016, recommends that Respondent's motion to dismiss be granted and the petition for a writ of habeas corpus be denied and dismissed with prejudice. ECF No. 9.

Each party was advised of the right to file objections to the findings and recommendations made by the Magistrate Judge. On October 7, 2016, the Court received Petitioner's objections to the report and recommendation. ECF No. 10.

The Court, having reviewed the record and examined the objections filed by Petitioner to the report and recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the report and recommendation. The Court, therefore, ORDERS that Respondent's motion to dismiss, ECF No. 5, is GRANTED, and the petition for a writ of habeas corpus, ECF No. 1, is DENIED and DISMISSED with prejudice.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," and the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

Petitioner is hereby notified that he may appeal from the Judgment entered pursuant to this Final Order by filing a notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such Judgment.

The Clerk shall mail a copy of this Final Order to Petitioner and counsel of record for Respondent.



Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia
November 2, 2016